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Summary record of the 34th meeting
Held at Headquarters, New York, on Thursday, 29 October 2015, at 3.10 p.m.

Chair: Mr. Mohamed (Vice-Chair) ..... (Guyana)

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In the absence of Mr. Hilale (Morocco), Mr. Mohamed (Guyana), Vice-Chair, took the Chair.

The meeting was called to order at 3.10 p.m.

Agenda item 72: Promotion and protection of human rights (*continued*) (A/70/40)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/70/56, A/70/111, A/70/154, A/70/166, A/70/167, A/70/203, A/70/212, A/70/213, A/70/216, A/70/217, A/70/255, A/70/257, A/70/258, A/70/259, A/70/260, A/70/261, A/70/263, A/70/266, A/70/270, A/70/271, A/70/274, A/70/275, A/70/279, A/70/279/Corr.1, A/70/285, A/70/286, A/70/287, A/70/290, A/70/297, A/70/303, A/70/304, A/70/306, A/70/310, A/70/316, A/70/334, A/70/342, A/70/345, A/70/347, A/70/361, A/70/371, A/70/405, A/70/414, A/70/415 and A/70/438)

(c) Human rights situations and reports of special rapporteurs and representatives (*continued*) (A/70/313, A/70/332, A/70/352, A/70/362, A/70/392, A/70/393, A/70/411 and A/70/412; A/C.3/70/2, A/C.3/70/4 and A/C.3/70/5)

1. **Mr. Singh** (Special Rapporteur on the right to education) introduced his report on the right to education (A/70/342), which focused on the rapid expansion of privatized education and the importance of developing an effective regulatory framework and implementation strategies to safeguard education as a public good.

2. **Ms. Tschampa** (Observer for the European Union) said that, with the alarmingly high number of 120 million children out of school worldwide, the right to education was as relevant as ever. The European Union was committed in particular to alleviating the situation of children who were denied the right to education because of conflict.

3. She asked the Special Rapporteur to elaborate on how and by whom public-private partnerships in the area of education should be monitored for compliance with human rights law. She also wished to know what tangible measures Governments could take to distinguish between private actors with a genuine philanthropic interest and those seeking profit from such partnerships. Finally, she asked the Special Rapporteur to share his views on the elaboration of indicators to measure progress towards Sustainable Development Goal 4.

4. **Ms. Snowbarger** (United States of America) said that, while her delegation agreed that education was an important public good, innovative public-private partnerships were often uniquely positioned to strengthen innovation and educational outcomes where they were needed most. For example, the Educate to Innovate initiative, which was intended to improve the quality of science, technology, engineering and mathematics education in the United States, had raised over $30 million to hire, retain and improve the effectiveness of teachers. The initiative was also intended to increase the number of students from minority groups in those fields. The Investing in Innovation fund, on the other hand, had benefitted over 2 million students across the country with an initiative to improve reading skills. Some of the world's most urgent needs, such as global access to the Internet, were best addressed through innovations in education. As the aforementioned initiatives demonstrated, public-private partnerships could leverage the resources needed to prepare students for leadership. She asked the Special Rapporteur to give some other positive examples of public-private partnerships that had increased access to education around the world.

5. **Mr. Torbergsen** (Norway) said that public-private partnerships could complement the efforts of the public sector. In that regard, it was essential to implement systems of quality assurance, especially in the case of vocational and technical training. He asked the Special Rapporteur to shed light on the opportunities afforded to girls in the context of public-private partnerships in education, in comparison with public education. Norway attached particular importance to the right to education of all marginalized groups, and girls were unfortunately still both excluded and marginalized.

6. **Ms. Didi** (Maldives) said that ensuring the right of every child to education without discrimination was a priority for her Government. Children and young people made up 46 per cent of the population, and education was an area of key importance and investment. The significant progress made in recent years included the attainment of universal primary education, and increased opportunities in higher education and through public-private partnerships.

7. Her Government reaffirmed the importance of the right to education and the responsibility of the State in that regard. While welcoming the recommendations made by the Special Rapporteur, her delegation also noted the many obstacles faced by small island nations in providing education. In the Maldives, it was challenging to ensure the provision of high quality education evenly across the 90,000 square kilometres of sparsely populated islands, and she wondered what innovative methods could be used to overcome those circumstances.

8. **Ms. Khatri** (Fiji) said that Fiji was endeavouring to realize the right to education from primary to the tertiary level and was on its second year of providing free education. Her country had welcomed the Special Rapporteur's participation in a panel discussion that Fiji had organized on the challenges to the progressive realization of the right to education during the twenty-eighth session of the Human Rights Council in March 2015.

9. Fiji expected to receive a visit from the Special Rapporteur in December 2015, and looked forward to discussing the issues raised in his report as well as the challenges that the Government faced in its efforts to progressively realize the right to education. Her Government accepted that a coherent social and economic development framework would be crucial to address those challenges. Good roads and bridges that allowed children to travel to school with ease, clean drinking water, proper sanitation, and lives that were free from violence and abuse were closely connected to accessible education. In that regard, while working to realize the right to education, her Government must simultaneously work to ensure the exercise of the other rights guaranteed by the constitution.

10. **Ms. Anichina** (Russian Federation) said that her delegation agreed that the quality of schooling was primarily the responsibility of States. The activities of public-private partnerships in education should conform to State standards, although in practice they often pursued financial interests. Public-private partnerships could also concentrate on providing services, rather than on the educational process, an approach that was often adopted in secondary education in the Russian Federation. She asked the Special Rapporteur to continue his research on the use of public-private partnerships in specialized secondary and tertiary education.

11. **Ms. García Gutiérrez** (Costa Rica) asked the Special Rapporteur to elaborate on what States could do to ensure more effective oversight of private-public partnerships, taking into account their responsibility to provide accessible and high-quality education.

12. **Ms. Le Shuang** (China) said that education, which was primarily the responsibility of the State, was the foundation for long-term development. China had always attached importance to education and made great efforts for its promotion and protection. Her Government had spent more than 4 per cent of annual gross domestic product on education between 2012 and 2014, and was in search of additional ways to increase investment in education.

13. China had consistently provided support to developing countries in the area of promotion and protection of the right to education. Not only was it planning to set up a South-South cooperation development academy to provide learning opportunities for other developing countries, but over the next five years China would provide other developing countries with 120,000 training opportunities and 150,000 scholarships in China, in addition to training for 500,000 technical personnel. It would also provide support for 100 schools and vocational training projects, and implement 100 "happy campus" projects to increase school enrolment rates for girls. Furthermore, China would invite 30,000 women from developing countries to take part in training programmes in China and train 100,000 women on-site in developing countries. China asked the Special Rapporteur to describe specific measures that could further advance the right to education.

14. **Mr. Cepeda Orvañanos** (Mexico) said that the 2013 education reform had reaffirmed the free, public and secular nature of education in Mexico. In addition to reaffirming the State's obligation to provide quality education, the General Education Act regulated the provision of private education. With a view to ensuring an adequate regulatory framework in that regard, he asked the Special Rapporteur about guidelines to observe when monitoring the standards of private sector contributions to education. He was also interested to hear about successful examples of oversight mechanisms for public-private partnerships. Lastly, with respect to accountability and penalties, he asked what criteria should be applied to ensure that legislation was consistent with the recommendations contained in the report.

15. **Ms. Moutchou** (Morocco) said that her Government had adopted a national charter on education and training that regulated private sector provision of education and ensured full compliance with the relevant public policies. Private sector education was an integral part of the education system in Morocco, and the private sector partnered with the State to expand access to quality education. A draft strategic vision for school reform for 2015 to 2030 aimed to strengthen the education system and guarantee equal educational opportunity for all citizens.

16. **Ms. Al-Rumeihi** (Qatar) said that her country had taken several initiatives in support of education, including the "Educate a Child" initiative and the establishment of an education and professional development fund for Syrian refugees and displaced persons. Qatar would also host the World Innovation Summit for Education in November 2015. Her delegation would like to know whether the Special Rapporteur intended to conduct a comprehensive review of the realization of the right to education of youth and children affected by conflict, refugees and displaced persons, and their protection from abuse by extremists.

17. **Ms. Redinha** (Portugal) said that Portugal continued to promote the right to education at the international level in very concrete ways, including through the consistent submission of relevant resolutions and the hosting of events. She asked the Special Rapporteur how States could develop strategies to encourage the decommodification of education at the national level. In the context of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which provided for a communications procedure, she was interested to hear what his expectations were regarding the accountability of private education providers, when it was States that had primary responsibility for ensuring quality, inclusive education for all. Finally, she asked how States could best develop effective oversight and monitoring mechanisms to ensure that standards were met.

18. **Mr. Osbuei** (Islamic Republic of Iran) said that human capital was an important component of economic growth and an effective vehicle for the reduction of inequality and extreme poverty. While recognizing the role of the private sector in the promotion of education, the Islamic Republic of Iran was of the view that Governments should not relinquish their core responsibility to ensure the right to education. Doing so would allow profit-making corporations to orient education agendas in ways that were not necessarily beneficial to students and to society.

19. **Mr. Singh** (Special Rapporteur on the right to education), responding to questions, said that a regulatory framework should be established for the assessment of all aspects of public-private partnerships in the context of education. A good framework would ensure that such agreements were transparent, correctly implemented and free of financial fraud. In an environment where even the educational content was left to the discretion of private providers of education, Governments should ensure that private-sector contributors upheld their obligations to the Government and to the international community. Private investment should be complementary to Government efforts and not lead Governments to reduce their investment in education. Instead of providing students with vouchers to attend private education facilities, governments should provide quality education themselves, thereby restoring confidence in public education.

20. There were a number of philanthropic organizations more interested in contributing to the cause of education than in making a profit. Education was not solely the responsibility of the State; it was a social responsibility and the moral obligation of all. It was therefore necessary to foster practices that would involve all stakeholders under the overarching objectives of the State. Good experiences should be shared. For example, Singapore had a high-quality education system, including private education, which was based on good education governance. That country's strict legislation in the area of education did not allow for the deployment of unqualified teachers, and criminal responsibility was applied in cases of failure to comply with the relevant State legislation. He had seen in his country visits that Governments often failed to fully implement existing legislation in that regard and did not conduct inspections. Although the use of information and communication technologies in that area was impressive, the number of abuses in that sector led him to conclude that Governments should first ensure compliance with education objectives.

21. Not all States could follow Norway's example of providing universal, free higher education, but they

should endeavour to advance progressively towards the realization of the right to education. In answer to the query from the representative of Norway, he noted that his report included references to efforts undertaken to promote the education of marginalized women and girls. He had witnessed a variety of measures during his country visits.

22. The initiative taken by Brazil, Russia, India and China, in which those States shared their experience of regulating privatized education, was a good example of South-South cooperation. Lastly, it was important that teachers, parents and other stakeholders brought cases of violation of the right to education to the attention of the Committee on Economic, Social and Cultural Rights.

23. **Mr. Wibisono** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967), introducing his report (A/70/392), said that the human rights and humanitarian situation in the Occupied Palestinian Territory was worsening. October's surge in violence had occurred against the backdrop of prevailing Israeli practices and policies in the West Bank, including Jerusalem, and in Gaza. He called for calm and restraint, and for all efforts to be made to prevent further escalation and to decrease tensions over the holy sites in Jerusalem.

24. There were serious concerns about the excessive use of force by Israeli security forces, including against children and when apprehending suspected assailants. While violent crimes perpetrated by individuals against Israeli citizens were inexcusable, the measures adopted by Israel must be in line with international humanitarian and human rights law. He was very concerned about the collective punishment imposed on Palestinians, including punitive home demolitions, and the impact on ordinary Palestinians of the extensive restrictions on movement that had recently been imposed in East Jerusalem. Once the Palestinians and Israelis had restored relative calm, the underlying issues of the conflict must be resolved. More lives would be lost without a peaceful resolution of the conflict, respect for international humanitarian and human rights law, and accountability for violations committed against the protected Palestinian population living under Israeli occupation.

25. Following Israel's lack of a formal response to his requests for access to the Occupied Palestinian Territory, he had conducted his second mission to the region in Amman, where he had met with representatives of civil society organizations, United Nations representatives, Palestinian officials and Palestinians living under the Israeli occupation. Sadly, his report confirmed the continuation of Israeli practices and policies that for years had been linked to violations of Palestinian human rights and international humanitarian law. Forced eviction and forcible transfer were among the continuing effects of settlement expansion in the West Bank, including East Jerusalem. Further deprivations of the human rights of Palestinians resulted from an inadequate supply of water due to discriminatory allocation, pollution from settlements due to untreated sewage, obstacles to access to health services, restrictions on freedom of movement, and settler violence. Human rights violations also resulted from excessive use of force by Israeli security forces, and he was concerned by the detention and treatment of Palestinian children.

26. Every aspect of the lives of Palestinians living under those circumstances was affected, creating a cumulative and coercive pressure to leave, particularly in areas where settlements had been built in contravention of international law. Gaza had been unable to recover from the Israeli military operation in 2014 due to the effects of the ongoing blockade, and there was a critical need for accountability for the violations suffered by the people there. Despite some domestic steps towards investigation in Israel, meaningful accountability remained a distant hope. The United Nations Independent Commission of Inquiry on the 2014 Gaza Conflict had found credible allegations of war crimes committed by both sides.

27. He remained concerned about the precarious circumstances in Gaza, including the devastated infrastructure, housing, soaring unemployment and restricted access to health. People were recovering from physical wounds and psychological trauma in a dire humanitarian situation in which a host of humanitarian rights were denied to them. It was clear that the Israeli blockade must be lifted to enable serious reconstruction and recovery.

28. He had taken up his mandate with the expectation that he would be able to visit the Occupied Palestinian Territory, based on assurances that he had received in June 2014. His only objective was to report independently on the situation of human rights there and contribute to positive improvement in the conflict.

29. In that context, he underscored the duty of every Member State to cooperate with a United Nations-appointed mandate. While the State of Palestine had cooperated fully, Israel had not formally responded to his multiple requests for access and had, in effect, denied him access. He had sought to establish relations with both Israel and Palestine and, although Israel had engaged in dialogue, it was unacceptable that an appointed independent expert should be denied access when seeking to fulfil a United Nations mandate. Although the continued lack of access to the Occupied Palestinian Territory had forced him to reconsider how best to serve his mandate, he would not accept that situation indefinitely. In October he had renewed his repeated requests for access, specifying that he wished to visit by the end of 2015.

30. Lastly, the general consensus, as attested by numerous United Nations resolutions, was that the situation in the Occupied Palestinian Territory was untenable and involved a persistent disregard for international law and human rights. The repeating cycle of violations of international law and escalation of violence must be addressed through insistence on compliance with international humanitarian and human rights law.

31. **Ms. Rasheed** (Observer for the State of Palestine) said that her Government had invited the Special Rapporteur to visit the Occupied Palestinian Territory to witness the water crisis for himself. Israel continued to use water as a weapon against the occupied population and had deliberately destroyed water and sanitation infrastructure in Gaza during its wars in 2008, 2010 and 2014, leading to over 90 per cent of water being deemed unfit for human consumption and leaving the sewage infrastructure on the verge of collapse. According to the United Nations Conference on Trade and Development, the Gaza Strip would become uninhabitable within the next five years.

32. Water consumption for some Palestinian communities in the West Bank was as low as 20 litres per capita, a fifth of the daily amount recommended by the World Health Organization. Her delegation would welcome more detailed information on the dire situation of Palestinians with regard to access to water and sanitation, how Israeli illegal settlers and settlements contributed to the crisis, what its adverse environmental consequences would be, and how the United Nations and the international community would continue to address the issue. She also enquired how the international community should address the culture of impunity that existed among Israeli occupation forces and armed settlers, who continued to terrorize and kill Palestinians without fear of punishment.

33. Her delegation deplored Israel's non-cooperation with the Special Rapporteur's mandate — a violation of its agreements under the Charter of the United Nations — and its recent refusal to allow Palestinian non-governmental organizations to travel to Jordan to give their testimonies. Her delegation cited Articles 104 and 105 of the Charter of the United Nations and underscored that Israel, as a Member State, was obliged to cooperate with the Organization. Despite Israeli efforts to prevent human rights mechanisms from reporting on its crimes against a defenceless, captive population, the State of Palestine urged the Special Rapporteur to explore all possible ways of obtaining Israel's cooperation.

34. **Mr. de Aguiar Patriota** (Brazil) said that his delegation was particularly concerned by the Special Rapporteur's statement that the impact of settlements on the territorial continuity of occupied Palestinian land and on the environment and natural resources might be irreversible. Any act of violence was unacceptable, and retaliation would not ease the tensions underlying the current resurgence of violence. Substantive peace talks between Israel and Palestine must be resumed urgently, with a view to establishing a sovereign, economically viable and territorially contiguous Palestinian State, side by side with Israel within the pre-1967 borders. The lack of action to end the occupation could only lead to a vicious cycle of human rights violations and destruction. Noting with alarm the fact that 100,000 Palestinians in Gaza had been displaced since 2014 and that the pledges for reconstruction remained unfulfilled, he stressed that the reversal of development gains must not be allowed to persist in Palestine. In that context, his delegation encouraged Israel to allow the Special Rapporteur access to the country. He asked the Special Rapporteur to discuss possible contributions that the Human Rights Council could make to curb the escalation of violence in Israel and Palestine.

35. **Mr. Storaci** (Observer for the European Union) said that the European Union appreciated the Special Rapporteur's intention, despite the limitations of his mandate, to report independently and objectively and his continued commitment to bilateral dialogue with Israel. The European Union continued to urge Israel to

resume full cooperation with the Human Rights Council and its special procedures and to allow them full access to Israel and the Occupied Palestinian Territory. The immediate priority for all must be to address the dire humanitarian and socioeconomic situation in the Gaza Strip in the aftermath of the 2014 hostilities. There must be a fundamental change in the political, security and economic situation in Gaza, including an end to the closure and a full opening of crossing points, while addressing Israel's legitimate security concerns. All stakeholders must commit to non-violence and peace, and Palestinian factions must give the highest priority to reconciliation and the return of the Palestinian Authority to Gaza. The Palestinian Authority must take greater responsibility in that regard and assume its government function in Gaza in all areas. Moreover, compliance with international humanitarian law and international human rights law by States and non-State actors was a cornerstone for peace and security in the region.

36. The European Union strongly opposed Israel's settlement policy and actions taken in that context as illegal under international law and an obstacle to peace and the two-State solution. It also condemned the latest deadly violence in the Occupied Palestinian Territory; all acts of terror were unacceptable, and the response of security forces should be proportionate. The European Union had been working to ease tensions and avoid further escalation. Leaders on both sides must promote calm, encourage restraint and avoid actions that could further fuel tensions. Welcoming the understandings reached between Israel, Jordan and the Palestinian Authority on the holy sites in Jerusalem the previous weekend, he stressed that only a negotiated two-State solution that ended the occupation and fulfilled the aspirations of both sides could bring lasting peace and security to Israelis and Palestinians. The European Union remained committed to working with the parties to that end, including by promoting an agreement on substantial steps to improve the situation.

37. **Mr. Mminele** (South Africa) said that his delegation had celebrated the hoisting of the Palestinian flag at United Nations Headquarters, even as the people of Palestine continued to suffer under the untenable conditions of occupation. The violations listed in the Special Rapporteur's reports constituted an indictment of the collective conscience of the Organization, in the absence of significant movement towards a permanent and sustainable solution to the drawn-out crisis after so many years. The reports also attested to Israel's flagrant disregard for international law. South Africa strongly condemned Israeli settlement policies and called on the international community to redouble its efforts to find a just, lasting and peaceful solution based on the pre-1967 borders, with East Jerusalem as the capital of a Palestinian State.

38. **Ms. Zahir** (Maldives) said that her delegation was dismayed by the grave human rights violations perpetrated by Israel in the Occupied Palestinian Territory. The Special Rapporteur's report highlighted how Israeli policies and practices had contravened international human rights law for the 48 years of occupation. The Maldives strongly supported a two-State solution as a fundamental step towards safeguarding the human rights of the Palestinians. The lack of accountability for past violations by the occupying Power was a troubling indication that continued international inaction would only lead to more injustices. In that regard, she enquired how the Special Rapporteur proposed that the violators should be held accountable and what specific role the international community should play in bringing to an end the injustices committed against the Palestinian people. She asked how his nine recommendations could be implemented without bringing the illegal Israeli occupation of the Palestinian Territory to an end.

39. **Mr. Storrar** (United Kingdom) said that Israel should grant the Special Rapporteur access to that country and to the Occupied Palestinian Territory at the earliest possible opportunity. His Government strongly condemned the troubling violence of the past month and had been making every effort to promote calm and urge all parties to refrain from violence. While Israel had very real security threats to deal with, it should do so in a proportionate manner. The United Kingdom welcomed the recent efforts of the United States Secretary of State to encourage an agreement and urged all sides to cooperate in its implementation as a first step towards ending the violence.

40. **Mr. Mulyadi** (Indonesia) said that the Government and people of Indonesia stood in solidarity with the Palestinian people at that tragic time. The Palestinian people had a dream of statehood, but were caught in a nightmare of foreign occupation, political oppression, economic deprivation and violation of their human rights. The Palestinian people

must be allowed to rebuild their communities, and the perpetrators of war crimes must be brought to justice. More had to be done to stop Israeli aggression and the occupation and to protect Palestinian civilians. In view of the failure of the Security Council to take action, the international community should apply pressure in favour of a sustainable ceasefire in order to break the cycle of violence. Prompt assistance must be given to reconstruction efforts in Gaza. Moreover, legal action must be taken to ensure that Israeli war criminals would not enjoy impunity. Lastly, international and regional organizations should play a more robust role in strengthening Palestinian human and institutional capacity for eventual statehood. For its part, Indonesia had been contributing to developing Palestinian national institutions. His delegation called on the Israeli authorities to allow the Special Rapporteur unimpeded access so that he could fulfil his mandate.

41. **Mr. Poveda Brito** (Bolivarian Republic of Venezuela) said that the illegal occupation of the Palestinian territories was the major cause of the violations of the human rights of the Palestinian people. The occupation and the policies implemented by the occupying Power were intended to fragment Palestine's social and territorial integrity, affect its viability as a nation and deny its population their human rights and fundamental freedoms. The most recent statistics of the United Nations Office for the Coordination of Humanitarian Affairs stated that over two thousand Palestinian homes had been demolished, making their inhabitants displaced persons in their own land.

42. The acts of State terrorism and war crimes perpetrated by the occupying Power, in clear violation of international humanitarian and human rights law, had consequences under international criminal law that could not be ignored. His delegation supported the lifting of the illegal blockade of the Gaza Strip and called for an end to the settlement policy and the occupation of the Palestinian territories. Venezuela supported the establishment of a Palestinian State with secure and internationally recognized pre-1967 borders, with East Jerusalem as its capital.

43. **Ms. Ismail** (Observer for the Organization of Islamic Cooperation) said that the Organization of Islamic Cooperation (OIC) had been established with the cause of Palestine as its mandate and Palestine continued to be at the forefront of its concerns. The OIC reiterated calls to lift the blockade on Gaza, halt settlement activity, end settler violence, stop the practice of administrative detention, and remove physical and procedural barriers so that Palestinians in Gaza and the West Bank, including East Jerusalem, could recover their livelihoods, enjoy freedom of movement and have access to health care.

44. The Special Rapporteur had expressed concern at the continuing violence in the West Bank, particularly the killing of civilians by the Israeli army and by armed settlers. Palestinian children in Hebron had been unable to go to school for the past three weeks due to violent attacks and Israeli military roadblocks. She asked what was needed to put an end to such grave human rights violations. She was also interested to hear what the long-term impact would be of the lack of access to health care for Palestinians and the shortage of classrooms for Palestinian children. In 2015, 11,000 Palestinian children had been unable to attend school due to a lack of classrooms caused by Israeli restrictions on building schools in occupied Jerusalem.

45. **Mr. Barkan** (Israel) said that, on the subject of water issues, the repetition of past misrepresentations would not make them true. Hamas had repeatedly called for the destruction of Israel, although none of the representatives at the current meeting had referred to that fact, as though Hamas could continue indefinitely to do so with impunity. The Committee had been exposed to a litany of accusations against Israel that were neither new nor true. Although it faced a wave of terrorism emanating from the incitement of Palestinian leaders, including Hamas, Israel would not give up its right to exist in peace. Israel would remain committed to the goal of a two-State solution. It was time for Palestinian leaders to negotiate with Israel, as speeches to international organizations, many of which were biased, would help no one, and dealing directly with Israel was the only way to achieve the desired goal. Lastly, at the thirty-second meeting of the Committee (A/C.3/70/SR.32), many countries had stated their opposition to country-specific mandates, regardless of the substance of the matter. However, there had been no objection at the current meeting to a country-specific report criticizing Israel, as that was apparently considered legitimate.

46. **Mr. Torbergsen** (Norway) said that his country strongly supported the Special Rapporteur's mandate and urged Israel to extend its full cooperation. It was imperative that the rules and principles of international humanitarian and human rights law be upheld at all

times. Any possible violations of international law by any party must be properly and independently investigated and where appropriate, prosecuted in order to avoid a culture of impunity. A lasting peace could only be built on a foundation of human rights and dignity. It was critical that the sums pledged for the reconstruction of Gaza at the Cairo International Conference on Palestine: Reconstructing Gaza were received, and access to basic utilities in Gaza must be ensured through reconstruction of homes and civil infrastructure. Norway encouraged both parties to take the necessary steps towards a negotiated political solution to the Israel-Palestine conflict.

47. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that his country welcomed the Palestinian Government's cooperation with the Special Rapporteur. The population had been greatly affected by occupation policies and practices, especially illegal and inhumane settlement expansion, the blockade, movement restrictions, and routine violations of the human rights of Palestinians. Without accountability, those occupation policies and practices would continue, although they were counter to international humanitarian and human rights law.

48. **Mr. Elbahi** (Sudan) said that his delegation supported the Special Rapporteur's mandate and called on the Organization to exert pressure to compel Israel to put an end to the human rights violations and to allow the Special Rapporteur to visit the affected areas.

49. **Mr. Al-Obaidi** (Iraq) said that Iraq condemned the efforts to restrict the Special Rapporteur's ability to carry out his work and demanded that Israel put an end to the oppression and abusive practices endured by the Palestinian people. His Government affirmed the Palestinian people's right to establish an independent State with Jerusalem as its capital.

50. **Mr. Al-Otoom** (Jordan) said that violations of the rights of the Palestinian people by the Israeli occupying forces were getting worse every day, violations that included the expansion of settlements the restrictions on freedom of movement and access to water, and home demolitions. Jordan had consistently condemned the arrest and imprisonment of children. Impunity was only encouraging the perpetrators to commit further violations. Efforts must be made to end to all violations and to uphold the Palestinian people's inalienable rights and legitimate aspirations to live in freedom and with dignity.

51. **Mr. Uğurluoğlu** (Turkey) said that Palestinians were still deprived of the right to live decent lives in dignity, respect and freedom. Historical injustices against the Palestinian people, reinforced by daily illegal Israeli practices on the ground, had fuelled hatred, alienation and radicalism in the region and beyond. His delegation was greatly concerned at the recent escalation of tensions in East Jerusalem and the West Bank, caused by the entry of Israeli security forces into Haram Al-Sharif, and it condemned the disproportionate use of force by the Israeli security forces. The situation in Gaza was also a cause of concern. In addition to the eight years of the blockade, there had been three Israeli military operations in the past six years. Humanitarian conditions were so disastrous that, according to the United Nations Conference on Trade and Development, Gaza could be uninhabitable by 2020.

52. It was of paramount importance that the blockade and all other restrictions be lifted, in accordance with Security Council resolution 1860 (2009), as those practices and the continuing Israeli occupation contravened international law and hampered efforts towards a lasting peace. Finding a just, comprehensive and lasting solution to the conflict and establishing a sovereign and independent Palestinian State within the pre-1967 borders, with East Jerusalem as its capital, remained a priority. Against that backdrop, he asked what more the international community could do to prevent violations of the human rights of Palestinians.

53. **Mr. Diyar Khan** (Pakistan) said that his country was disappointed that Israel continued to obstruct the Special Rapporteur's efforts to fulfil his mandate, which was a slight to the entire international community. The mandate related to the human rights situation in an occupied territory and was therefore neither political nor controversial, and had the support of Member States. The United Nations must take all appropriate measures to ensure its own credibility and hold Israel accountable for the war crimes that it had committed in the twenty-first century. If Israel had nothing to hide, it should grant access to the Special Rapporteur. The international community must remain fully aware that any attempts to use terrorism to justify human rights violations were as condemnable as terrorism itself.

54. **Mr. Baomar** (Oman) said that raising the Palestinian flag as an Observer State at United Nations Headquarters had been a symbolic step that reminded

the international community of the Palestinian people's tragedy and its aspiration to attain its legitimate rights. His Government condemned the daily violations perpetrated by Israel against the Palestinian people and called on the United Nations and the States sponsoring the dialogue to redouble their efforts to attain the goal of two independent States living side by side in peace.

55. **Mr. Rabi** (Morocco) said that King Mohammed VI of Morocco, as Chair of the Al-Quds Committee, had on many occasions sounded the alarm for the situation in Palestine, where killings of innocent civilians, home demolitions and the systematic Judaization of Jerusalem continued. Unacceptable transgressions had occurred, in contravention of international law and to the chagrin of Muslims around the world. Meanwhile, the Israeli authorities persisted in their efforts to change the legal status of the holy city. No unilateral action regarding Islamic landmarks in the holy city should be taken. The international community must put an end to those acts of provocation and curb settlement activity, in fulfilment of its responsibility towards the Palestinian people. Returning to the negotiation table in good faith was the only way to resolve the question of Palestine. His Government remained committed to the establishment of an independent State of Palestine with East Jerusalem as its capital, within the pre-1967 borders, in line with the Arab Peace Initiative.

56. **Mr. Wibisono** (Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967), responding to questions, said that almost all of the water reserves in Gaza had been destroyed during the July 2014 conflict and had not yet been restored. Bottled water had to be purchased as water from the pipes was undrinkable, and it was therefore important to push forward with reconstruction. In the West Bank, there was a serious problem with the imbalanced allocation of water; settlers received approximately 356 litres per day, while Palestinians received only 17 litres per day.

57. Regarding sewage, he said that he had met with several individuals, including the mayor of Wadi Fukin village. Wadi Fukin had previously been a fertile area for growing fruit and vegetables, but had then been contaminated by sewage from the neighbouring settlement. Such situations needed to be addressed.

58. Regarding the long term impact of a lack of access to education, he said that it could affect the quality of life for a whole generation of people — a "lost" generation. The occupying Power was responsible for providing access to education and should pay attention to the shortage of classrooms and facilities. Furthermore, many schools in Gaza had been destroyed and needed to be reconstructed, as a lack of schools could lead to extremism. The international community had provided many instruments to address those issues, but international humanitarian and human rights law was not being observed. Compliance with international law would put an end to all human rights violations. The International Court of Justice had issued an advisory opinion stating that the right to education of Palestinians must be respected.

59. Responding to the comments of the representative of Israel, he said that he always sent an advance copy of his report to the country concerned as a courtesy, and he was open to any information that could correct inaccuracies. He had received no response from Israel in that regard. He encouraged Israel to cooperate with his mandate, which was not against Israel but was to work for the improvement of the human rights situation in the Occupied Palestinian Territory.

60. Lastly, and despite continuing reconstruction, the situation in Gaza remained dire following the unprecedented destruction and high number of fatalities and injuries in 2014. People in Gaza needed housing, clean water, electricity, work, income and access to adequate health services. He would like to see the United Nations in New York contribute to addressing that situation.

61. **Mr. Heyns** (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing his report (A/70/304), said that the protection of the right to life had two components: preventing arbitrary deprivation of life and ensuring accountability should such deprivation occur. States had a duty under both international human rights law and international humanitarian law to investigate allegations of violations of the right to life. He had initiated the process of updating the 1991 Manual on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions in order to reflect the technical and legal developments that had taken place since its publication, with the assistance of working groups on the forensic and legal aspects of the issue and an advisory panel composed of international experts. He had already received several responses to

his request for written submissions. He encouraged Member States, national forensic institutions and non-governmental organizations to participate in the second round of public consultations, in particular the discussions on the best way to update the Manual.

62. All States had a negative obligation not to collaborate in the application of the death penalty in other States to persons of any nationality if such a punishment would be unacceptable on their own territory. They should also ensure that their own citizens were not subjected to the death penalty overseas in a way that would be unacceptable under their domestic law. Therefore, States that had abolished the death penalty should provide consular assistance to prevent the death penalty from being imposed on their citizens, while States that retained the death penalty should provide consular assistance to ensure that the death penalty was not applied in a manner that violated international standards.

63. **Ms. Tschampa** (Observer for the European Union) welcomed the Special Rapporteur's efforts to update the Manual and asked what key issues had been discussed thus far in the context of that process. The European Union strongly opposed the application of the death penalty. Given that international safeguards concerning the death penalty must be respected until such time as the punishment was abolished, she asked what States that retained the death penalty should do to ensure that their law enforcement personnel were fully aware of the right to consular assistance. She concluded by calling on all States to cooperate with the Special Rapporteur, including by accepting requests for visits.

64. **Mr. Pasquier** (Switzerland) said that forensic science helped States comply with their obligation to investigate violations of the right to life and punish those responsible. In light of Switzerland's strong opposition to the death penalty, his delegation welcomed the report's focus on the links between the right to life and other human rights, including the right to non-discrimination. There were a number of human rights issues to consider in the application of the death penalty to foreign nationals, including the right to non-discrimination. In that connection, he asked the Special Rapporteur whether it was possible to overcome discriminatory application of the death penalty without addressing structural discrimination against foreign nationals, in particular in the administration of justice. Since Switzerland supported the view that the application of the death penalty for drug-related offences was illegal, he would also be interested to know whether the Special Rapporteur intended to give priority to working with States that applied the death penalty for those offences.

65. **Mr. Torbergsen** (Norway), welcoming the report's emphasis on the duty of States to investigate suspected violations of the right to life, asked how human rights mechanisms could contribute to ensuring that comprehensive investigations were carried out and what role properly established forensic capacity could play in those investigations. Norway encouraged the Special Rapporteur to give particular attention to the element of his mandate concerning the application of the death penalty as arbitrary execution and thus a violation of the right to life.

66. **Mr. Storrar** (United Kingdom), calling on all States to support the mandate of the Special Rapporteur, said that lethal action had no place in justice systems. The execution of prisoners in State custody undermined the essential belief in human dignity and offered no benefit in terms of positive deterrent or public safety. He called on States to eliminate all forms of unlawful action by State actors, in particular extrajudicial killings, which, by undermining the rule-based international system and destroying citizens' faith in national judicial systems, had an extremely detrimental impact on human rights and security. He also asked what the likely time frame would be for eliminating extrajudicial killing globally.

67. **Ms. Nescher** (Liechtenstein) asked what percentage of executions worldwide were incompatible with the International Covenant on Civil and Political Rights and with the Economic and Social Council safeguards on the rights of those facing the death penalty. She also asked the Special Rapporteur to discuss the need for individualized sentencing, which had been raised by previous mandate holders. Recalling the Special Rapporteur's 2013 report to the Human Rights Council, which focused on lethal autonomous robotics (A/HRC/23/47), she asked how he intended to address that issue from a human rights perspective in the future.

68. **Mr. Adeoye** (Nigeria) said that accountability had a central role to play in the prevention of arbitrary executions. Given the differences in the technical forensic capacity of States, capacity-building should be provided to help developing countries strengthen their

justice systems. The process of updating the Manual should enjoy the support of all Member States. It was regrettable that migrant workers, in particular those from Africa and Asia, continued to be disproportionately disadvantaged when facing the death penalty abroad.

69. In view of the inalienable right of all States to establish justice systems in line with their national priorities and without interference by any other State or entity, it was inappropriate to attempt to compel States to abolish the death penalty or dictate the types of crime for which it should be applied. He asked the Special Rapporteur to elaborate on his assertion that consular assistance could materially diminish the likelihood of the imposition of a death sentence on foreign nationals and to suggest means of providing such assistance. He noted that the report focused on the responsibility of States to prevent extrajudicial killings and abolish the death penalty but did not discuss the obligation of all persons, including migrants, to respect the laws of the host State. In conclusion, he said that the Special Rapporteur was welcome to visit Nigeria at a mutually agreed date.

70. **Mr. de Aguiar Patriota** (Brazil) said that the report's focus on the impact of forensic activities on the right to life, the international obligations of States with regard to that right and, in particular, the situation of foreign nationals facing the death penalty were timely and appropriate. The application of the death penalty in any circumstances was a flagrant violation of the right to life and the principle of humane treatment of prisoners. States that had not abolished the death penalty must take every precaution to prevent the violation of foreign nationals' right to non-discrimination. He called on all States to abolish the death penalty, or at least refrain from applying the sentence for offences that were not among the most serious crimes, which was a violation of the International Covenant on Civil and Political Rights. He would be interested to hear the views of the Special Rapporteur regarding the international obligations of States retaining the death penalty towards persons with mental disabilities, as it was the understanding of Brazil that such conditions diminished the ability of offenders to comprehend the implications of their actions and should therefore constitute sufficient reason to not apply the death penalty.

71. **Mr. Jabbar** (Iraq) said that he would like to know what legal framework could be applied to a conflict between a State and a terrorist entity, and whether the latter could be compelled to abide by international humanitarian law. With regard to the Special Rapporteur's mention in his report of ensuring a just investigation and trial process for foreign nationals, he noted that many foreigners who had travelled to Iraq had done so not to earn a living but to kill innocent people. Islamic State in Iraq and the Levant (ISIL) had carried out the mass execution of 1,700 Iraqi citizens in the Camp Speicher massacre in June 2014. Despite the heinous nature of the crime, the Iraqi judiciary was committed to giving the perpetrators a fair trial.

72. **Mr. Heyns** (Special Rapporteur on extrajudicial, summary or arbitrary executions) said that revisions to the Manual would concern forensic issues and legal issues. DNA evidence and digital photography were among the advancements that had been made in forensic science since the publication of the Manual. Legal questions that would be examined included the requirements for a proper investigation and the thresholds at which the duty to investigate arose for factual assessments and criminal investigations, including whether or not the threshold was the same for both types of investigation. The intersection of the forensic and legal elements of investigations should also be examined. Another important issue was that of obligations in situations of armed conflict, as legislation on that matter was in many instances interpreted inconsistently or not fully developed.

73. To ensure that foreign nationals facing the death penalty were aware of their right to consular assistance, States that administered the death penalty should provide proper training for their law enforcement officials. State programmes to assist citizens facing the death penalty abroad also contributed to raising awareness among officials in the prosecuting State.

74. Human rights mechanisms and forensic services could contribute to ensuring proper investigations by providing capacity-building in States that were not yet in a position to conduct proper investigations. For example, the increasing use of international forensics experts by Human Rights Council commissions of inquiry was helping to build knowledge on the ground.

75. The death penalty would certainly not be eliminated globally for some time, and every arbitrary loss of life was a tragedy of immense proportions.

However, efforts to abolish the punishment were having an effect. Arguments that violence could not be controlled or was increasing were unfounded; it was well established that the number of violent deaths had decreased dramatically over the past four centuries.

76. It would be difficult to calculate how often the death penalty was applied in violation of international standards, but a large percentage of those executed were certainly being punished for offences that were not among the most serious crimes. Not only was the death penalty often administered for drug-related offences, but people were also being executed by States as a result of their religious beliefs, convictions, and other actions such as adultery that should not be considered crimes. One person was currently facing the death penalty for participation in a protest. The application of the death penalty as the result of an unfair trial, which occurred frequently, also constituted a violation of the right to life.

77. The use of autonomous weapons was not only a disarmament issue but also a human rights issue, given the increased depersonalization of force in law enforcement and the potential use of autonomous weapons for law enforcement purpose. It was therefore important for human rights mechanisms to continue working on that issue.

78. He looked forward to visiting Nigeria in early 2016. Regarding the question of whether the issue of the death penalty fell within the exclusive jurisdiction of each State, it was important to note that there were legitimate international concerns pertaining to certain restrictions that should be placed on the application of the death penalty: the execution of pregnant women, minors and persons tried for offences that were not among the most serious crimes, for example, was a violation of the right to life as understood under customary international law and international treaties.

79. Consular assistance normally involved providing legal assistance, ensuring that accused persons understood the charges against them and facilitating their contact with their families. With regard to mental disabilities, it was a violation of international law to execute a person who had been incapable of understanding their actions during the commission of a crime or whose mental abilities had broken down after the trial.

80. The duty to investigate that was recognized in situations of international armed conflict seemed also to apply in situations of non-international armed conflict, as least with respect to war crimes. There might also be a general duty to investigate all violations of international humanitarian law in both types of conflict. Regarding trials persons who had travelled to Iraq to commit crimes, he said that persons who had violated the right to life must be brought to trial. In law enforcement situations, trials must be conducted in accordance with the law, while in situations of armed conflict, international human rights standards and humanitarian law should be observed.

The meeting rose at 5.50 p.m.